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SENATE BILL 497

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO MANUFACTURED HOUSING; ENLARGING POWERS AND DUTIES  
OF THE MANUFACTURED HOUSING DIVISION OF THE REGULATION AND  
LICENSING DEPARTMENT; PROVIDING PENALTIES; AMENDING SECTIONS OF  
THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 60-14-4 NMSA 1978 (being Laws 1978,  
Chapter 80, Section 1, as amended) is amended to read:

"60-14-4. POWERS AND DUTIES OF DIVISION.--The division  
shall:

A. prepare, administer and grade examinations for  
licensure under the classification sought by each applicant;

B. issue licenses and certificates of qualification  
in accordance with the provisions of the Manufactured Housing  
Act;

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1           C. establish and collect fees authorized to be  
2 collected by the division pursuant to the Manufactured Housing  
3 Act;

4           D. subject to the approval of the committee, adopt  
5 rules and regulations relating to the construction, repair,  
6 modification, installation, tie-down, hookup and sale of all  
7 manufactured homes, which regulations shall be uniform  
8 throughout the state and shall be enforced by inspectors for  
9 the division to insure minimum standards of safety within the  
10 state and any of its political subdivisions. Ordinances of any  
11 political subdivision of New Mexico relating to gas, including  
12 natural gas, liquefied petroleum gas or synthetic natural gas;  
13 electricity; sanitary plumbing; and installation or sale of  
14 manufactured homes shall not be inconsistent with any rules,  
15 regulations, codes or standards adopted by the division  
16 pursuant to the Manufactured Housing Act;

17           E. adopt a budget and submit it to the regulation  
18 and licensing department for approval;

19           F. make an annual report to the superintendent of  
20 regulation and licensing concerning the operations of the  
21 division. The report shall contain the division's  
22 recommendations for legislation that it deems necessary to  
23 improve the licensing and the ethical and technical practices  
24 of the manufactured housing industry and to protect the public  
25 welfare;

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1 G. subject to the approval of the committee, adopt  
2 such rules, regulations, codes and standards as are necessary  
3 to carry out the provisions of the Manufactured Housing Act;

4 H. prepare a uniform manufacturer's warranty and  
5 require its adoption as a condition of licensure by all  
6 manufacturers of manufactured homes doing business in New  
7 Mexico;

8 I. subject to the approval of the committee, adopt  
9 by regulation the mobile home construction and safety standards  
10 contained in the National Mobile Home Construction and Safety  
11 Standards Act of 1974, 42 U.S.C. 5401 et seq., as amended;

12 J. subject to the approval of the committee, adopt  
13 by regulation the mobile home procedural and enforcement  
14 regulations, 24 C.F.R. 3282, as amended, promulgated by the  
15 department of housing and urban development pursuant to the  
16 National Mobile Home Construction and Safety Standards Act of  
17 1974, 42 U.S.C. 5401 et seq., as amended;

18 K. issue permits and provide for a single  
19 inspection of every installation in New Mexico, regardless of  
20 the location;

21 L. subject to the approval of the committee, adopt  
22 regulations prescribing standards for the installation or use  
23 of electrical wiring; the installation of all fixtures,  
24 plumbing, consumer's gas pipe, including natural gas, liquefied  
25 petroleum gas and synthetic natural gas, appliances and

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1 materials installed in the course of mechanical installation;  
2 and the construction, alteration, installation and repair of  
3 all manufactured homes intended for use in flood or mudslide  
4 areas designated pursuant to Section 3-18-7 NMSA 1978. The  
5 regulations shall give due regard to standards prescribed by  
6 the federal insurance administration pursuant to regulation  
7 1910, Subsection 7(d), 79 Stat. 670, Section 1361, 82 Stat. 587  
8 and 82 Stat. 5757, all as amended, and shall give due regard to  
9 physical, climatic and other conditions peculiar to New Mexico;

10 M. conduct "inspector schools" so that each  
11 inspector under the division's jurisdiction is capable of  
12 giving a complete one-time inspection for the sufficiency of  
13 unit installation, construction and mechanical and electrical  
14 systems;

15 N. enter into cooperative agreements with federal  
16 agencies relating to manufactured housing and accept and use  
17 federal grants, matching funds or other financial assistance to  
18 further the purposes of the Manufactured Housing Act. The  
19 division may enter into agreements with municipalities and  
20 counties to provide for the inspection of manufactured homes by  
21 employees of municipalities and counties, to be performed under  
22 the supervision and control of the division. The division may  
23 allow all or a portion of the inspection fee collected by a  
24 local public body to be retained by the local public body. The  
25 portion of the fee retained shall be determined by the division

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1 and shall be related to the completeness of the inspection  
2 performed;

3 O. administer oaths through any member of the  
4 division, the director or a hearing officer;

5 P. subject to the approval of the committee, adopt  
6 rules and regulations for the conducting of hearings and the  
7 presentation of views, consistent with the regulations  
8 promulgated by the department of housing and urban development,  
9 24 C.F.R. 3282.151 through 3282.156, as amended;

10 Q. subject to the approval of the committee, adopt  
11 by regulation a requirement that dealers, repairmen and  
12 installers provide to consumers warranties on their product and  
13 work and prescribe by regulation minimum requirements of such  
14 warranties;

15 R. coordinate with and qualify inspectors for any  
16 multiple inspection program provided by the construction  
17 industries division of the regulation and licensing department  
18 for inspection of manufactured homes; [~~and~~]

19 S. subject to the approval of the committee, adopt  
20 regulations, codes and standards for manufactured homes used  
21 for nonresidential purposes; provided such manufactured [~~home~~]  
22 homes being used for nonresidential purposes on [~~the effective~~  
23 ~~date of this act~~] May 18, 1988 shall not be required to meet  
24 Uniform Building Code standards, except as to requirements for  
25 access to the handicapped, but manufactured homes being used

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1 for nonresidential purposes after [~~the effective date~~] May 18,  
2 1988 shall be required to meet Uniform Building Code standards.  
3 [~~F.~~] None of the provisions contained in [~~Subsection S of~~  
4 ~~Section 60-14-4 NMSA 1978~~] this subsection shall apply to  
5 retailers licensed by the motor vehicle division of the  
6 taxation and revenue department; and

7 T. with the approval of the superintendent of  
8 regulation and licensing, employ such personnel as the director  
9 deems necessary for the exclusive purposes of investigating  
10 violations of the Manufactured Housing Act, enforcing Section  
11 60-14-17 NMSA 1978 and instituting legal action in the name of  
12 the division to enforce the provisions of Section 60-14-19 NMSA  
13 1978."

14 Section 2. Section 60-14-19 NMSA 1978 (being Laws 1983,  
15 Chapter 295, Section 24) is amended to read:

16 "60-14-19. PENALTIES.--

17 A. Any person who knowingly and willfully violates  
18 a provision of the Manufactured Housing Act or any rule,  
19 regulation or administrative order of the committee or division  
20 in a manner that threatens the health or safety of any  
21 purchaser or consumer [~~commits~~] is guilty of a misdemeanor and  
22 on conviction shall be fined not more than one thousand dollars  
23 (\$1,000) or shall be confined in the county jail not longer  
24 than one year or both.

25 B. In any action brought to enforce any provision

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1 of the Manufactured Housing Act, the ~~[attorney general]~~  
2 division, upon petition to the court, may recover on behalf of  
3 the state a civil penalty not to exceed one thousand dollars  
4 (\$1,000) for each violation, except that the maximum civil  
5 penalty may not exceed one million dollars (\$1,000,000) for any  
6 related series of violations occurring within one year from the  
7 date of the first violation.

8 C. Failure by a manufacturer or dealer to comply  
9 with the warranty provisions of the Manufactured Housing Act or  
10 any implied warranties or the violation of any provision of the  
11 Manufactured Housing Act by any person is an unfair or  
12 deceptive trade practice in addition to those practices defined  
13 in the Unfair Practices Act and is actionable pursuant to the  
14 Unfair Practices Act. As such, the venue provisions and all  
15 remedies available in the Unfair Practices Act apply to and are  
16 in addition to the remedies in the Manufactured Housing Act.

17 D. The director may issue a license to an applicant  
18 who at any time within one year prior to making an application  
19 has acted as an unlicensed dealer, broker, salesperson,  
20 repairman, manufacturer or installer in New Mexico without a  
21 license as required by the division if:

22 (1) the applicant in addition to all other  
23 requirements for licensure pays an additional fee as follows:

24 (a) in an amount up to ten percent of  
25 the contract price or the value of the unlicensed work in the

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1 discretion of the committee; or

2 (b) if the applicant has bid or offered  
3 a price on a project and was not the successful bidder or  
4 offeror, the fee shall be at least one percent but not more  
5 than five percent of the total bid amount in the discretion of  
6 the committee; and

7 (2) the director is satisfied that no incident  
8 of unlicensed work:

9 (a) caused monetary damage to any  
10 person; or

11 (b) resulted in an unresolved consumer  
12 complaint being filed against the applicant or the division.

13 E. Any unlicensed person who has performed  
14 unlicensed work may settle the claims against that unlicensed  
15 person without becoming licensed if the claims arise from that  
16 person's first offense and that person pays an administrative  
17 fee calculated pursuant to Paragraph (1) of Subsection D of  
18 this section. In addition to the administrative fee, an  
19 additional ten percent of the amount of the administrative fee  
20 shall be assessed as a service fee.

21 F. If the total fee to be paid by the unlicensed  
22 person pursuant to the provisions of Subsection D or E of this  
23 section is twenty-five dollars (\$25.00) or less, the fee may be  
24 waived by the director."